

## THE DISTRICT COURT

**Mitchell Case Hotly Contested**  
—After Deliberating Two Days, the Trial Jury

### RETURNS HUNG JURY VERDICT

At the opening of court last Friday morning the grand jury returned true bills as follows:

B. M. Mitchell, larceny.  
Joseph Harper, contempt.  
Holly Ray, murder.  
C. L. LeRoy, issuing worthless check.

W. W. Gwyn, issuing worthless check.

Pete Runk, selling or giving liquor to minors?

Grover Kornegay, assault with a deadly weapon.

Joseph Homolka, issuing worthless check.

Sol Schoonover, vagrant.

Tuesday the grand jury returned the following true bills and two no bills:

J. B. Marrin, assault and threats.

Daniel D. Sullivan, assault.

Sebastain Hernandez, unlawfully carrying a rifle and flourishing same.

Juan Lujan, unlawfully carrying pistol.

B. M. Mitchell, carrying deadly weapon.

J. B. Marrin and B. M. Mitchell, malicious threats.

Geo. Bane, no bill.

The wind up of the Mitchell case occupied the attention of the court until Saturday night, the arguments of the attorneys occupying the day from the opening of court in the morning. The opening argument for the prosecution was made by District Attorney L. O. Fullen, who talked about forty-five minutes, presenting the case of the territory in a very terse and lucid manner. He was followed by C. R. Brice for the defense, who also made a fine argument for his client. Brice was followed by Capt. Bujae, who occupied the time from about eleven until 2:30 p. m. He was followed by W. W. Gatewood, who talked from 2:30 until about five. The judge's charge consumed about half an hour and the jury then retired. It was soon evident that it would hang, for Sunday morning it was still out. Monday morning the jury asked to be released, stating that it had hopelessly disagreed. Judge Pope extended their time, telling them that he insisted on a verdict. About 5:30 the jury again reported, hoping to be excused on a mistrial, but the judge was obdurate and again sent them back. At nine p. m., Judge Pope sent for the jury and after fully satisfying himself that no agreement was possible, and after expressing regret that the members of the jury were confined so long, and thanking them for their evidently conscientious work he discharged the jury.

As soon as the jury appeared on the street it became noised about that four were for acquittal and eight for conviction, those for acquittal being Jurors Gossett, Reed, Hegler and Collier, with Allison, Albritton, Cook, Kline, Morgan, Kensinger, Baldwin and Stocks for conviction.

This case, which will go down in history as the biggest sheep stealing case ever known in Eddy county, was first started when, about March 19, 1907, M. E. Sewalt, who, with L. A. Swigart and Mr. Griffin, was en-

gaged in running sheep on the Chaves-Eddy Co., line forty miles east of Lake Arthur, missed over 400 of their sheep and immediately started out on a hunt riding for seven days. Upon going to the camp, on the Plains, seventy-five miles north-east of Carlsbad, owned by the Bolles Live Stock Co., and managed by B. M. Mitchell, who also had 2900 sheep with the Bolles sheep, but had taken his ewes to his ranch to lamb. Mr. Sewalt discovered some suspiciously marked sheep in a flock in charge of a Mexican named Amou, who could not be found for a witness in the case, having been spirited away. Leander Mitchell was engaged as rustler for the Bolles sheep, generally known as the Bryant sheep, because Mr. F. E. Bryant is the representative in Carlsbad of the owners.

When Mr. Sewalt discovered the suspicious looking sheep he went to the Buckeye Co., ranch, some ten miles southwest, where he met Mr. Swigart and Mr. Lytle, arriving at twelve o'clock the night of March 27. They all drove to Monument that night arriving at daylight March 28. They swore out a search warrant before Justice of the Peace J. L. Taylor, Jack Waters, the constable, serving same. They went to the sheep but after arriving, learned they had taken out papers in the wrong precinct. They then went to Knowles and secured another search warrant from Justice Griffin and Constable Florence Love served same, both constables going to the sheep cutting out 440. Then B. M. Mitchell told Swigart and Sewalt he had branded the sheep for Bryant. He also said he would replevin the sheep.

He was arrested with his brother Leander, by Sheriff Christopher a month later charged with stealing 440 sheep, the number cut out by the constables. The two Mitchells gave bond in the sum of \$2,000 each with F. E. Bryant surety. The case being set for the fall term of court, B. M. Mitchell turned 2900 sheep over to Jack Marrin claiming to have sold them. The Mitchell's then skipped the country.

In order to save himself on the Mitchell's bond, Mr. Bryant attacked the validity of the sale to Marrin of the Mitchell sheep. Marrin's attorneys compromised by paying the bond out of the sale of the wool, the county accepting \$3000. Marrin had previously sold the sheep to MacArthur & Record, to whom the Mitchell's were indebted for supplies while running sheep. MacArthur & Record assuming all indebtedness against the Mitchells, which amounted to between \$7,000 and \$8,000.

B. M. Mitchell was arrested in January, having returned to Monument, where in company with J. B. Marrin he forced MacArthur & Record to turn over the sheep to Marrin. MacArthur signing a bill of sale at the muzzle of a Winchester, Marrin running the sheep since.

Now a trial to try the rights of property as between MacArthur & Record on one side, and J. B. Marrin on the other will occur shortly. Two true bills were found against Marrin by the grand jury at this term and as soon as he got wind of this action he skipped the country. Now unless he contests the right to the property in court, MacArthur & Record's title will be undisputed.

The case against Sol Schoonover for vagrancy by running a house of prostitution was called promptly at 9 a. m., Tuesday, before the following trial jury: R. A. Montgomery, W. C. Marable, W. T. Kinsinger, R. L. Smith, Geo. Kline, T. M. Curtis, J. D. H. Reed, J. R. Linn, H. M. Chilcoat, H. E. Robb, Harry Gaither, Julian Smith. All forenoon and until after three in the afternoon was consumed in getting the jury. After listening to the evidence of Geo. Sable, the main witness for the prosecution, and several others, among them Boyd Hill, Garrett Reed and Chas. Rascoe, who swore that Sable's reputation for truth and veracity was bad, the judge read a very voluminous charge to the jury. After deliberating four hours or until after twelve o'clock, the jury returned the following verdict:

We the jury in the case of the Territory vs. Sol Schoonover find the defendant guilty as charged and recommend the clemency of the court.

GEO. KLINE,  
Foreman.

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